

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-524-C - ORDER NO. 2001-531
JUNE 11, 2001

IN RE:	Application of Ecom USA Limited for a)	ORDER
	Certificate of Public Convenience and)	GRANTING
	Necessity to Provide Intrastate Interexchange)	CERTIFICATE FOR
	Telecommunications Services within the State)	LONG DISTANCE
	of South Carolina and for Alternative)	AUTHORITY AND
	Regulation.)	ALTERNATIVE
)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Ecom USA Limited ("Ecom" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide all forms of intrastate, interexchange telecommunications services within the State of South Carolina. In addition, the Company requests that the Commission regulate its business services offerings under the identical regulatory treatment granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Ecom to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Ecom's Application and of the manner and time in which to file the appropriate pleadings for participation in

the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on April 25, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Ecom was represented by Weston Adams, III, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Roy H. Barnette, Auditor, and James M. McDaniel, Chief, Telecommunications area, testified on behalf of the Commission Staff.

Mr. Lewis E. Farsedakis, President and co-founder of Ecom USA Limited, appeared and testified in support of the Application. Mr. Farsedakis testified that he is responsible for overseeing all aspects of administration, marketing and operations, responsible for business development and strategic partnerships, and for securing additional capital for the Company. The record reveals that Ecom is a Delaware corporation that was formed on December 7, 1997, and received authorization to transact business within the State of South Carolina on October 17, 2000. The record further reveals that Ecom is a privately held stock corporation, governed by a board of directors. Mr. Farsedakis' testified that Ecom offers long distance resold telecommunications services including interLATA, intraLATA, intrastate, interstate and international 1+ dialing and calling card services. He said Ecom intends to offer those services in South Carolina.

Regarding the Company's technical and financial ability to offer telecommunications services in South Carolina, Mr. Farsedakis testified that Ecocom is a financially sound company that is growing rapidly. He said the Company does not need a large amount of capital and resources to offer resold services in South Carolina. He offered that the Company is attracting venture capital even at this time of uncertainty in the telecommunications industry and that the shareholders have strong banking and vendor relationships which are important to the Company's growth and development. He said Ecocom is currently qualified to offer its services in twenty states, had applications pending in an additional nine states at the time of the hearing, and stated that the business plan includes eventually offering services on a nationwide basis. Mr. Farsedakis opined that Ecocom relies on the technical expertise of its underlying carrier, Global Crossing, for maintenance and administration of long distance network services. He said as a telecommunications reseller, Ecocom personnel possess skills and experience which will be used to augment the expertise and technical assistance obtained from its underlying carrier. Mr. Farsedakis testified that Ecocom will offer services to business users and residential customers in South Carolina. He said Ecocom's target market is usually small businesses such as hotels, hospitals and independent banks. Mr. Farsedakis said that Ecocom offers its services over a dedicated VoIP (Voice over the Internet) network that is not apparent to customers and delivers excellent quality of service. He explained that Ecocom does not use Internet Telephony, a totally different kind of service that uses voice packets to travel through the Internet, thereby creating concerns for the quality of the service. Mr. Farsedakis will be the Company's regulatory contact person. He said the

two customer service managers and customer service contact persons are Tiffany Ballve and Shannon McWilliams. The toll-free customer service telephone number is (877) 494-6744. Mr. Farsedakis testified that Ecocom's customer service department is fully staffed and available from 8:00 a.m. until 8:00 p.m. Monday through Friday and from 9:00 a.m. until 5:00 p.m. on Saturdays and Sundays. Mr. Farsedakis testified that Ecocom's customers are billed in-house and the Company's name and toll-free telephone number will appear on the customer's monthly bill. He said Ecocom does not intend to use telemarketing in South Carolina at this time; he said the Company is aware of the Commission's marketing guidelines.

As to Ecocom's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Farsedakis testified that the Company is guided by an experienced and highly able management team that includes individuals who have distinguished themselves over the past several years in executive positions within the telecommunications industry. He said the senior management team possesses extensive technical, operations and regulatory telecommunications experience. Mr. Farsedakis, the Company's President, testified that key management includes Jussi P. Korkala of Helsinki, Finland, who fulfills engineering, data and Internet Protocol responsibilities for Ecocom. He said Sonny Souvannavong has become a consultant to the Company. Mr. Farsedakis stated that the key management team includes experts who have experience in the telecommunications industry in the areas of Russia, the Baltics, and the Black Sea. Mr. Farsedakis further testified that Brian Bayer is now with Ecocom. He said Mr. Bayer brings over seven years of experience in providing both data communications and

systems engineering support. He said the financial contact person will be Kimball Call who can be reached at (703) 821-8121. Mr. Farsedakis is the Company's regulatory contact person.

Roy H. Barnette testified as to his findings of the Audit Department's review of Ecom's unaudited financial statements that were submitted as part of the Company's Application. Mr. Barnette testified that Ecom USA Limited is a newly-created company that is still in the start-up mode. He stated he reviewed two sets of financial statements. The first set was dated December 31, 1999, and the second set was dated December 31, 2000. According to Mr. Barnette, the Company's December 2000 financial statements showed that cash made up 3.75% of the total assets. He said the Company, as of the date of the financial statements, was in a fair financial position to begin operations in South Carolina. He offered that in order to be successful, the Company will need to begin to generate operating profits, secure additional long term financing and/or have some other source of capital in order to improve the deficit in retained earnings and the working capital position.

The purpose of Mr. McDaniel's testimony was to present to the Commission the findings of the Utilities Department regarding the Application of Ecom for a Certificate of Public Convenience and Necessity. Additionally, the purpose of his review was to ensure that the Company's tariff complied with the Commission's regulations, policies and orders. Mr. McDaniel's testimony consisted of comments and suggested modifications to the Company's tariff. Mr. Farsedakis agreed the Company would make

all the changes to Ecocom 's tariff as recommended by Commission Staff witness James M. McDaniel.

According to the Application and Mr. Farsedakis' testimony, Ecocom requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Ecocom can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Virginia; it will keep South Carolina specific records. Mr. Farsedakis stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Ecocom further requested the Commission's permission to be exempt from any record-keeping rules or regulations that might require the Company to maintain its financial records in conformance with the Uniform System of Accounts. According to the record, Ecocom wishes to maintain its book of accounts in accordance with the Generally Accepted Accounting Principles (GAAP).

According to Mr. Farsedakis, Ecocom has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that Ecocom has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Ecocom has not marketed its services in South Carolina prior to receiving certification. Mr. Farsedakis testified that the Company has not received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Additionally, he said that Ecocom has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. Finally, Mr.

Farsedakis testified Ecocom will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. The Company agreed to provide the Commission with the final Tariff, a copy of its Bill Form, according to 26 S. C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976).

Ecocom requested that all of its business service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is Ecocom's intent by this request to have its business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Ecocom is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Ecocom is a provider of long distance services and wishes to provide long distance services in South Carolina.
3. Ecocom has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Ecom to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the long distance services of Ecom which are consistent with the principles and procedures established for alternative regulation for business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under the Commission approved alternative regulation, the business service offerings of Ecom including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 96-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Ecom also.

3. The Commission adopts a rate design for Ecocom for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Ecocom shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Ecocom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

5. If it has not already done so by the date of issuance of this Order, Ecocom shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order

and shall be consistent with the Commission's Rules and Regulations. Further, Ecocom shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.

6. Ecocom is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Ecocom shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Ecocom changes underlying carriers, it shall notify the Commission in writing.

9. Ecocom shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests

and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Ecocom shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

11. With regard to the origination and termination of toll calls within the same LATA, Ecocom shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

12. By its Application and testimony at the hearing, Ecocom requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Montana. Further, the

Commission grants Ecom's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA.

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

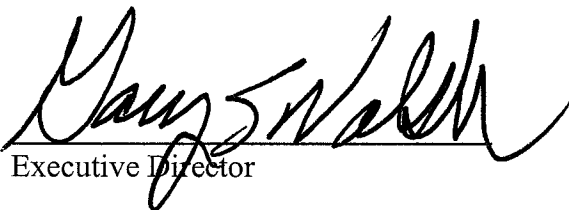
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)